

**BALA SATYA MANI SHANKAR  
KARRI,**

**Plaintiff,**

**V.**

**BMW (US) HOLDING CORP;AN  
LUXURY IMPORTS OF SAN DIEGO,  
INC. D/B/A/ BMW OF ENCINITAS;  
SONIC AUTOMOTIVE OF  
NASHVILLE, LLC D/B/A/  
BMW OF NASHVILLE;  
BMW FINANCIAL SERVICES; and  
SESHA MADHURI MERLA,**

## Defendants.

**Case No. 3:22-cv-00528**

**U.S. District Judge Aleta A. Trauger**

## JURY DEMAND

## PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff, Bala Satya Manishankar Karri (“Plaintiff”), by and through the undersigned counsel, files this Amended Complaint against Defendants, AN Luxury Imports of San Diego, Inc. d/b/a BMW of Encinitas, BMW Financial Services NA, LLC, (collectively “BMW”), BMW (US) Holding Corp, and Defendant, Sesha Madhuri Merla (“Sesha”). In support Plaintiff would show the following:

## **Parties, Jurisdiction and Venue**

1. Plaintiff brings this action under the Tennessee Consumer Protection Act of 1977 (“TCPA”), Tenn. Code Ann. § 47-18-101, *et seq.*, to obtain temporary, preliminary, and permanent

relief, rescission or reformation of contracts, restitution, disgorgement, and other equitable and statutory relief for the defendants acts or practices in violation of Tenn. Code Ann. § 47-18-2104.

2. Defendant, AN Luxury Imports of San Diego, Inc. d/b/a BMW of Encinitas (“BMW Encinitas”), is a corporation with its principal place of business located at 1302 Encinitas Boulevard, Encinitas, CA 92024. Defendant BMW Encinitas is a subsidiary corporation of AN Dealership Holding Corp., which is corporation registered in Tennessee with its principal place of business and mailing address at Susie Chance, 200 SW 1<sup>st</sup> Ave FL 14, Ft Lauderdale, FL 33301.

3. Defendant, BMW Financial Services NA, LLC (“BMW Financial”), is registered with the Tennessee Secretary of State with its principal place of business located at 300 Chestnut Ridge Rd, Woodcliff Lake, NJ 07677 and a mailing address of PO Box 1227, Westwood, NJ 07675.

4. Defendant, Sesha Madhuri Merla (“Sesha”), is an individual that resides at 8050 Marylebone High St Apt 305, Montgomery, Alabama 36116-7904.

5. Venue and Jurisdiction are proper in the Federal District Court for the Middle District of Tennessee.

#### **FACTS - DEFENDANT SESHA MERLA**

6. Plaintiff and Defendant, Sesha, are from India where they met studying for their undergraduate degrees in 2011.

7. In 2015, Plaintiff moved to the United States and obtained a master’s degree from the University of Central Missouri. Shortly thereafter, Defendant Sesha, also moved to the United States.

8. On or around November 9, 2020, Defendant, Sesha, called Plaintiff and asked to borrow One Thousand Dollars (\$1,000.00) because her mother was in the hospital suffering from Covid-19 and she needed money to pay the hospital bills.

9. Plaintiff agreed to loan Defendant, Sesha, the One Thousand Dollars (\$1,000.00) and immediately sent the requested funds via bank transfer.

10. On November 9, 2020, several hours after receiving the initial loan Defendant, Sesha, asked to borrow additional funds from Plaintiff and Plaintiff agreed to loan Defendant, Sesha, an additional Three Thousand Dollars (\$3,000.00) bringing the total loaned amount to Four Thousand Dollars (\$4,000.00).

11. On or around November 9, 2020, Sesha, again called Plaintiff and requested to borrow additional money claiming her mother remained in the hospital due to a heart attack and an emergency operation was required. Plaintiff made another loan to Defendant, Sesha, for One Thousand Dollars Five Hundred Dollars (\$1,500.00) bringing the total amount borrowed to Five Thousand Five Hundred Dollars (\$5,500.00).

12. Plaintiff questioned Defendant, Sesha, on her mother's alleged condition and requested copies of medical bills or reports to confirm Defendants, Sesha's, statements, and after further discussions and promises by Sesha to repay all the funds via monthly installments, Plaintiff agreed to loan Defendant, Sesha, additional funds for her mother's care.

13. On November 10, 2020, Plaintiff borrowed \$20,000.00 through Upstart.com which totaled \$18,900.00 after various fees that he subsequently loaned to Defendant, Shesha, based upon her promises to repay the loan via monthly installment payments. The total cost of the loan to Plaintiff was \$23,088.82 bringing the total amount borrowed to \$28,588.82.

14. On November 12, 2020 Plaintiff made another loan to Defendant, Sesha, in the amount of \$2,000 bringing the total amount borrowed to \$30,588.82.

15. Between November 9, 2020, and November 16, 2020, Plaintiff loaned Defendant, Sesha, more than \$30,000.00 at Defendant's, Sesha, request for her mother's emergency medical expenses.

16. Defendant, Sesha, agreed to repay the money to Plaintiff via monthly installments and made monthly payments totaling \$6,848.82 over a six (6) month period leaving a balance of \$23,740.00 exclusive of fees, interests and damages.

17. After six months Defendant, Sesha, stopped making the monthly payments.

18. Plaintiff asserts claims against Defendant, Sesha, for breach of contract, fraud, and unjust enrichment.

**FACTS - DEFENDANTS BMW OF ENCINITAS, BMW FINANCIAL, AND BMW (US)**

**HOLDING CORP**

19. Plaintiff's claims against BMW of Encinitas, BMW Financial, and BMW (US) Holding Corp, (collectively "BMW") arise from Plaintiff initially agreeing to co-sign for a 2020 BMW 228i xDrive sold by Defendant, BMW of Encinitas.

20. Plaintiff initially agreed to co-sign a loan for Defendant, Sesha, to purchase the vehicle on or around November 15, 2020.

21. On or around November 17, 2020, Andrew Wood the CFS Manager for Defendant, BMW Encinitas, called Plaintiff to inform him that he was sending an email requesting Plaintiff's car insurance information and a copy of Plaintiff's passport to conduct a credit inquiry.

22. On November 18, 20220, Plaintiff responded to an email from Andrew Wood and provided his insurance card, a copy of his passport, and requested personal information to Defendant, BMW Encinitas.

23. On or around November 18, 2020, CFS Manager, Andrew Wood, called Plaintiff to inform him that someone was coming to his home in Nashville, TN with various documents including the co-signor agreement for Plaintiff to sign.

24. During the call between Plaintiff and Andrew Wood, Plaintiff informed Andrew Wood that he had concerns signing the paperwork because he was having second thoughts about going forward with the transaction. Andrew Wood promised Plaintiff he could cancel the contract at any time prior to delivery of the car.

25. On or around November 19, 2020, an individual with Maverick Signings arrived at Plaintiff's home in Nashville, TN to hand deliver various documents related to the purchase of the Vehicle including a Motor Vehicle Retail Installment Contract. Plaintiff subsequently signed the documents at his residence in Davidson County, Tennessee and the executed documents were given to the representative of Maverick Signings.

26. On or around November 21, 2020, Plaintiff's suspicions peaked regarding the claims made by Defendant, Shesha, because she again called Plaintiff requesting to borrow additional funds for her allegedly dying mother.

27. After the call on November 21, 2020, Plaintiff spent the next three days investigating Defendant, Shesha's, claims regarding her mother. Plaintiff discovered that Defendant, Sesha, was lying about her mother's health.

28. On November 24, 2020, Plaintiff contacted Defendant, Sesha, to inform her that he no longer wanted to go forward with co-signing for the Vehicle and he wanted to formally cancel the contract with Defendant, BMW Encinitas.

29. On November 24, 2020, Plaintiff asked Defendant, Sesha, to call Defendant, BMW Encinitas, to inform Andrew Wood they were cancelling the contract and would not accept delivery of the vehicle. Defendant, Sesha, subsequently represented to Plaintiff that she called Andrew Wood on November 24, 2020, and informed him they were cancelling the contract and would not be accepting delivery of the Vehicle.

30. On November 24, 2020, Plaintiff also contacted BMW of Encinitas to personally speak with Andrew Wood. Plaintiff informed Mr. Wood he wanted the contract cancelled and asked whether Defendant, BMW Encinitas, needed Plaintiff to sign additional paperwork evidencing their desire to formally rescind/cancel the contract.

31. During the call on November 24, 2020, Plaintiff also made specific inquiries about the signed contract and what would happen to the documents because they contained sensitive personal information. In response, Andrew Wood, stated the contract was cancelled because the Vehicle had not been delivered. Andrew Wood stated he would throw the signed contract in the trash once it arrived in the mail from Maverick Signings.

32. Plaintiff asked Andrew Wood for an email confirming the contract was cancelled and on November 24, 2020, Andrew Wood sent Plaintiff and Defendant, Sesha, an email stating the contract is cancelled and there was nothing additional to sign because neither Plaintiff nor Sesha took delivery of the Vehicle.

33. After receiving the confirmation email from Andrew Wood on November 24, 2020, Plaintiff had no further contact with Andrew Wood, Sesha or any other representative from Defendant, BMW Encinitas, regarding the Vehicle or the cosigner agreement.

34. On July 4, 2021, Plaintiff received an email from Defendant, BMW Financial Services, indicating that monthly payments for a 2020 BMW 228i Xdrive Gran Coupe had not been received and that the account was delinquent.

35. Plaintiff then discovered Defendant, BMW Encinitas, delivered a 2020 BMW 228i Xdrive Coupe to Defendant, Sesha, after formally cancelling the contract that Plaintiff co-signed.

36. Plaintiff avers Defendant, BMW Encinitas, fraudulently used Plaintiff's personal identifying information and added Plaintiff as a co-signor, without Plaintiff's knowledge or consent, to a new contract for Defendant, Sesha, to purchase a 2020 BMW 228i Xdrive.

37. Defendant, BMW Encinitas's, usage of Plaintiff's personal identifying information to obtain financing for Defendant, Sesha, has caused Plaintiff to suffer damages including a substantial reduction in his credit score.

38. Plaintiff's present claims against Defendants, BMW of Encinitas and BMW Financial, are for violations of the Fair Credit Reporting Act, Tennessee Identity Theft Deterrent Act, Tennessee Consumer Protection Act, Intentional Infliction of Emotional Distress, Negligence, Negligent Misrepresentation, Promissory Estoppel, and Fraudulent Inducement.

39. Plaintiff's claims against BMW (US) Holding Corp are based upon unjust enrichment for profits received from the sale of the 2020 BMW 228i to Defendant, Sesha Merla.

**COUNT ONE - VIOLATION OF 15 U.S.C.S. § 1681h(e)**  
**“FAIR CREDIT REPORTING ACT”**  
**(Against Defendants, BMW of Encinitas and BMW Financial)**

40. Plaintiff repeats and re-alleges paragraphs two (2) through five (5) and nineteen (19) through thirty-eight (38), as if set forth fully herein.

41. Plaintiff avers Defendants, BMW Financial and BMW Encinitas, are users of information and furnish information to consumer reporting agencies.

42. Plaintiff avers Defendants, BMW Financial and BMW Encinitas, acting with willful intent to injure Plaintiff, furnished false information to consumer reporting agencies.

43. Plaintiff avers Defendants, BMW Encinitas and BMW Financial, knowingly provided false information to consumer reporting agencies and/or acted with reckless disregard of the truth or falsity of the information provided.

**COUNT TWO - VIOLATION OF T.C.A. § 47-18-2101 et seq TENNESSEE IDENTITY**  
**THEFT DETERRENCE ACT**  
**(Against Defendants, BMW of Encinitas and BMW Financial)**

44. Plaintiff repeats and re-alleges paragraphs one (1) through six (6) and nineteen (19) through thirty-eight (38), as if set forth fully herein.

45. Plaintiff avers Defendants, BMW Encinitas and BMW Financial, violated T.C.A. § 47-18-2103, by engaging in identity theft; or engaging in unfair, deceptive, and misleading acts and practices for the purposes of directly or indirectly engaging in identity theft.

46. Plaintiff avers Defendants, BMW Encinitas and BMW Financial, used his identification documents to obtain automobile financing for Defendant, Sessa, without Plaintiff's knowledge or consent.

47. Plaintiff avers Defendants, BMW Encinitas and BMW Financials, actions have caused Plaintiff to suffer an ascertainable loss.



**COUNT THREE - VIOLATION OF T.C.A. § 47-18-101 et seq TENNESSEE CONSUMER  
PROTECTION ACT**  
**(Against Defendants, BMW of Encinitas and BMW Financial)**

48. Plaintiff repeats and re-alleges paragraphs one (1) through six (6) and nineteen (19) through thirty-eight (38), as if set forth fully herein.

49. Plaintiff avers Defendants, BMW Encinitas and BMW Financial, violated the Tennessee Consumer Protection Act.

50. Plaintiff avers the actions of Defendants, BMW Encinitas and BMW Financial, constitute an unfair or deceptive act or practice affecting trade or commerce.

**COUNT FOUR – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(Against Defendants, BMW of Encinitas and BMW Financial)**

51. Plaintiff repeats and re-alleges paragraphs two (2) through six (6) and nineteen (19) through thirty-eight (38), as if set forth fully herein.

52. Plaintiff avers Defendants, BMW Encinitas and BMW Financial, engaged in intentional or reckless conduct.

53. Plaintiff avers the conduct by Defendant, BMW Encinitas and BMW Financial, is so outrageous that it is not tolerated by civilized society.

54. Plaintiff suffered serious mental injury because of the intentional or reckless conduct because of the reckless or intentional conduct of Defendants, BMW Encinitas and BMW Financial.

**COUNT FIVE – NEGLIGENCE**  
**(Against Defendant, BMW of Encinitas)**

55. Plaintiff repeats and re-alleges paragraphs two (2) through six (6) and nineteen (19) through thirty-eight (38), as if set forth fully herein.

56. Plaintiff avers Defendant, BMW Encinitas, acted negligently and recklessly.

57. Defendant, BMW Encinitas, owed a duty of care to Plaintiff, or in the alternative, created a duty of care when Defendant, BMW Encinitas, advised Plaintiff that he could cancel the agreement any time prior to delivery of the vehicle and when Defendant, BMW Encinitas, told Plaintiff the signed version of the contract would be destroyed upon its arrival to Defendant, BMW Encinitas.

58. Defendant, BMW Encinitas, breached the duty of care it owed to Plaintiff.

59. The negligence and reckless conduct of Defendant, BMW Encinitas, directly and proximately caused foreseeable harm to Plaintiff.

**COUNT SIX – NEGLIGENT MISREPRESENTATION**  
**(Against Defendant, BMW of Encinitas)**

60. Plaintiff repeats and re-alleges paragraphs two (2) through six (6) and nineteen (19) through thirty-eight (38) as if set forth fully herein.

61. Defendant, BMW Encinitas, through its agent CFS Manager, Andrew Wood, acting in the course of its business, profession, or employment, or in a transaction in which it had a pecuniary interest, supplied information to Plaintiff regarding Plaintiff's ability to cancel the sales contract prior to delivery.

62. The information Defendant, BMW Encinitas, provided to Plaintiff was false.

63. Defendant, BMW Encinitas, failed to exercise reasonable care in obtaining or communicating the false information to Plaintiff.

64. Plaintiff justifiably relied on false information provided by Defendant, BMW Encinitas.

**COUNT SEVEN – PROMISSORY ESTOPPEL**  
**(Against Defendant, BMW of Encinitas)**

65. Plaintiff repeats and re-alleges paragraphs two (2) through six (6) and nineteen (19) through thirty-eight (38), as if set forth fully herein.

66. Defendant, BMW Encinitas, made multiple promises to Plaintiff.

67. The promises made by Defendant, BMW Encinitas, to Plaintiff were unambiguous and not unenforceably vague.

68. Plaintiff reasonably relied on the promises of Defendant, BMW Encinitas, to his detriment.

**COUNT NINE - BREACH OF CONTRACT**  
**(Against Defendant, Sesha Merla)**

69. Plaintiff repeats and re-alleges paragraphs two (2) through eighteen (18) above, as if set forth fully herein.

70. Defendant, Sesha, borrowed money from Plaintiff.

71. Defendant, Sesha, promised to repay Plaintiff for the funds she borrowed.

72. Plaintiff has made a demand to Defendant, Sesha, to repay the borrowed money.

73. Defendant, Sesha, has failed to make the agreed upon payments to Plaintiff and stated she will not make any further payments to Plaintiff.

74. Plaintiff has suffered damages caused by the breach of Defendant, Sesha.

**COUNT TEN – FRAUD**  
**(Against Defendant, Sesha Merla)**

75. Plaintiff repeats and re-alleges paragraphs two (2) through eighteen (18), as if set forth fully herein.

76. Plaintiff avers Defendant, Sesha, intentionally misrepresented that she would repay Plaintiff.

77. Plaintiff avers Defendant, Sessa, knew she was not going to repay Plaintiff.

78. Plaintiff avers he has suffered injury as a result of his reliance upon Defendant, Sessa's, misrepresentations.

**COUNT ELEVEN - UNJUST ENRICHMENT**  
**(Against Defendants, Sessa Merla, and BMW (US) Holding Corp)**

79. Plaintiff repeats and re-alleges paragraphs two (2) through eighteen (18) and paragraphs nineteen (19) through thirty-nine (39), as if set forth fully herein.

80. Plaintiff avers a benefit was conferred on Defendants, Sessa Merla and BMW (US) Holding Corp.

81. Defendant, Sessa, received a new BMW she otherwise would not have been able to purchase.

82. Defendant, BMW (US) Holding Corp, received profit from the sale of the BMW to Defendant, Sessa.

83. Plaintiff avers Defendants, Sessa Merla and BMW (US) Holding Corp have appreciated the benefits they received.

84. Plaintiff avers Defendants, Sessa Merla and BMW (US) Holding Corp, accepting the benefits under the circumstances would make it inequitable for them to retain the benefit without paying for the benefit.

**JURY DEMAND**

85. Plaintiff demands a trial by jury on all issues determinable by a jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

Plaintiff respectfully requests the following relief:

86. An award of compensatory, consequential, punitive, and all other damages determined after analyzing all claims against Defendants, BMW of Encinitas, BMW Financial, and BMW (US) Holding Corp.

87. An award of compensatory, consequential, punitive, and all other damages determined after analyzing all claims against Defendant, Sasha;

88. An award of pre-judgment and post-judgment interest at the statutory rate for all claims against all defendants;

89. An award of discretionary costs;

90. An award of attorney's fees against Defendant, BMW and BMW Financial Services;

91. An award of all damages available by law;

92. All other relief to which the Plaintiff may be entitled.

/s/ William Shea Forgety

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*Attorney for Plaintiff*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing Plaintiff's First Amended Complaint was sent to the following persons and corporations on the 21<sup>st</sup> day of September 2022 via: U.S. Mail and the Court's Electronic Filing System.

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/s/ William Shea Forgety

